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TECHNOLOGY CENTER R3700

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 08/950,826  
Filing Date: 10/15/1997  
Applicant: Yukio Uemura, et al.  
Group Art Unit: 3743  
Examiner: John K. Ford  
Title: AIR CONDITIONING APPARATUS FOR VEHICLE  
Attorney Docket: 4041J-000063/CPA

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Director of The United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

RESPONSE

Sir:

In response to the Office Action mailed September 30, 2003, Paper No. 20, please consider the following.

EARLIEST PRIORITY DATE

Applicants disagree with the Examiner. The earliest priority document is JP 08-152721 filed June 13, 1996. As clearly shown in Figure 1 of JP 08-152721 the post evaporator sensor 39 is illustrated as a post-evaporator sensor. As detailed in the Appeal Brief, the "bottom" passage is not relevant to the present invention.

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### **INVENTORSHIP**

The inventorship of the four priority documents (JP 08-152721; JP 08-273715; JP 08-340182; and JP 08-340107) and the present application is the same. They all have Kenji Suwa, Yukio Uemura and Kazushi Shikata as inventors.

The confusion in the inventorship is being caused by the inventorship listing on the English abstracts associated with the priority documents. These English abstracts have the inventors translated by an automated scanning device. Because of the numerous Kan-Ji characters in the Japanese language, the scanner frequently makes mistakes in the inventors names. This is where the inventors Yukio Kamimura and Kazufumi Yomo came from. Attached is a certified translation of the Japanese application forms which shows the true inventorship of the priority documents which is the same as the present application.

### **REINSTATEMENT OF APPEAL**

Applicants respectfully request reinstatement of the Appeal. Enclosed is a Supplemental Appeal Brief addressing the rejections.

### **PREMATURE APPEAL**

Applicants respectfully disagree with the Examiner regarding the premature pursuit of the Appeal. Applicants filed a declaration of Kenji Suwa, Yukio Uemura and Kazushi Shikata. As detailed above, these are the inventors of the present invention. Yukio Kamimura and Kazufumi Yomo are fictional inventors created by a

scanning device that occasionally mis-reads Kan-Ji characters. Thus, all three inventors signed declarations and Applicants believe that the conceded prior art of Figures 11A-11D was not deficient.

#### **DUTY OF INVESTIGATION**

Each of the declarations state that they have reviewed JP-A-7-47831 in relation to sensor 80 and that JP-A-7-47831 is silent as to the location of sensor 80. In addition, each inventor does not know personally where sensor 80 is positioned. This personal knowledge declaration goes beyond the four corners of JP-A-7-47831 by having the inventors state that in their personal knowledge, they are unaware of the location of the sensor. Applicant's believe they were the first to identify that the location of the temperature sensor was relevant to the performance of the air conditioning apparatus.

#### **FIGURES 11A-11D**

All three inventors signed a declaration and this is believed to be sufficient to remove the admitted prior art of Figures 11A-11D.

#### **REJECTION UNDER 35 U.S.C. § 102(F)**

Claims 1, 3-8, 10 and 19-24 are rejected under 35 U.S.C. § 102(f) because the Applicant did not invent the claimed subject. As stated above, this rejection is based upon an invalid translation by a scanning device which attempts to read Kan-Ji characters. The Supplemental Brief addresses this rejection also.

**REJECTION UNDER 35 U.S.C. § 103**

Claims 1, 3, 5-8, 10, 20 and 21-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iritani, et al. (U.S. Pat. No. 5,526,650) in view of JP 6-40249. This rejection is addressed in Applicants' Supplemental Appeal Brief.

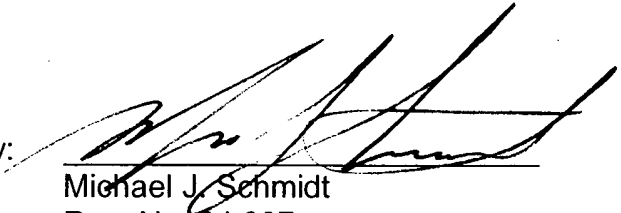
Claims 3 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to Claims 1 and 10 above, and further in view of JP 6-270645 or JP 7-69045. This rejection is addressed in Applicants' Supplemental Appeal Brief.

Claims 6, 19, 23 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over the prior art as applied to Claims 1 and 10 above, and further in view of JP 5-124426. This rejection is addressed in Applicants' Supplemental Appeal Brief.

Respectfully submitted,

Dated: December 15, 2003  
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